

FOREIGN MEDICAL PROGRAM POLICY MANUAL

CHAPTER: 1
SECTION: 3
TITLE: RECONSIDERATION/APPEAL OF CLAIMS

AUTHORITY: 38 USC 511, 38 USC 1724, 38 CFR Part 20, Subparts A-D, 38 USC 7105, 38 CFR 17.132, 17.133

I. POLICY

A. If a health care provider, veteran, legal guardian or veteran's representative (designated as such in writing by the beneficiary/legal guardian) disagrees with the initial determination concerning covered services or calculation of benefits, he or she may request reconsideration.

B. The request for reconsideration must:

1. be submitted to the Chief, Administrative Division, Health Administration Center (HAC) in writing,
2. be submitted within one year of the date of the initial determination (an initial determination may be a letter or explanation of benefits (EOB)).
3. state why it is believed the decision is in error, and
4. include any new and relevant information not previously considered.

C. A request for reconsideration that does not identify the reason for the dispute will be returned without further consideration.

D. An untimely request for reconsideration will be denied.

E. After reviewing the claim and relevant supporting documentation, a written determination will be issued within 30 days of the receipt of the request for reconsideration.

1. The determination will affirm, reverse, or modify the original determination.

2. The request for reconsideration will be reviewed on the merits of the documentation and/or argument made in support of such request.

F. If there is still disagreement, a written request for review to the HAC Director

may be made within 90 days of the date of the notice of the first reconsideration decision.

1. The Director or designee will review the claim and any relevant supporting documentation and issue a decision in writing that affirms, reverses, or modifies the previous decision.

2. The decision of the Director with respect to benefit coverage and computation of benefits is final.

G. Board of Veterans Appeals

1. Appeals based on administrative requirements may be appealed to the Board of Veterans Appeals in accordance with 38 CFR Chapter 20.

2. If the beneficiary or his or her representative requests an appeal to the Board of Veterans Appeals, based on an adverse administrative decision, a Statement of the Case (SOC) will be forwarded to the beneficiary at the latest address of record and a separate copy provided to his or her representative (if any).

- a. The statement of the case must contain:

- (1). a summary of the evidence in the case relating to the issue or issues with which the appellant or representative has expressed disagreement,

- (2). a summary of applicable laws and regulations, with appropriate citations, and a discussion of how such laws and regulations affect the determination, and

- (3). the determination of the agency of original jurisdiction on each issue and the reasons for each such determination with respects to which disagreement has been expressed.

- b. With the SOC, the beneficiary and the representative will be furnished information on the right to file, and the time limit for filing a Substantive Appeal (within 60 days of the date when the agency of original jurisdiction mails the SOC), information on hearing and representation rights, and a VA Form 9, "Appeal to Board of Veteran Appeals."

3. The Board's jurisdiction extends to questions of eligibility.

4. HAC determinations regarding the Board's jurisdictional authority may be appealed to the Board.

5. Medical determinations, such as the need for and appropriateness of specific types of medical care or treatment, are not appealable to the Board. Typical examples of issues beyond the Board's jurisdiction are whether a particular drug should

be prescribed, whether a specific type of physiotherapy should be ordered, and judgmental treatment decisions with which an attending physician may be faced. These requests would be denied. The decision regarding the Board's jurisdiction could then be appealed.

*** END OF POLICY ***